



U.S. Citizenship
and Immigration
Services

63

FILE:

Office: LOS ANGELES

Date:

OCT 14 2004

IN RE:

Obligor:
Bonded Ali

IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration
and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Maureen Johnson

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

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identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that on December 4, 2002, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated December 2, 2002, was issued granting the alien voluntary departure in lieu of removal on or before January 31, 2003. The bonded alien filed an appeal and a motion to accept an untimely brief before the Board of Immigration Appeals (BIA). On August 28, 2003, the BIA denied the motion to accept the untimely brief. On December 18, 2003, the BIA denied the appeal. On April 15, 2004, the field office director concluded the bond had been breached.

On appeal, counsel requests that the appeal be considered as a motion to reopen the bond breach because the BIA's decision was issued in error as it referenced an in absentia order of removal, rather than a voluntary departure. Counsel asserts that the error in the BIA's decision made it literally impossible for the alien to comply with the terms of the bond.

It is noted that Executive Office for Immigration Review (EOIR) records reflect that on January 20, 2004, the alien filed a motion to reopen, which was granted on September 15, 2004.

The regulation at 8 C.F.R. § 1003.2(f) provides in part that filing a motion to reopen or a motion to reconsider before the BIA shall not stay the execution of any decision made in the case with certain exceptions. No exceptions have been shown in this case. Execution of such decision shall proceed unless a stay of execution is specifically granted by the BIA, the immigration judge, or an authorized officer of ICE. The record does not reflect that a stay of deportation was granted.

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the field office director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for Immigration and Customs Enforcement (ICE) to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field office director will not be disturbed.

ORDER: The appeal is dismissed.